

Annual leave may not be merged with maternity leave



LEGAL VIEW
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Know the law

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45

days, including the period preceding and the period following her confinement,

maternity leave in accordance with the Labour Law.

Contracts favourable to employee will be considered *I am an employee of a multinational company with offices in Sharjah. I have been employed here since March 30, 2013 and my termination of employment will be by end of June (notice not yet served but verbally informed). I have a base contract with my company's global recruiting division based in Europe to work in Sharjah which mentions the basic salary.*

After arriving here, I have also signed a local internal contract in English and bilingual standard contract registered with the Ministry of Labour both showing my basic

salary and allowances. The English contract states that I am eligible for all statutory payments as per local law as long as there is no duplicative benefits arising from any other contracts. It also specifically states that there is no severance pay and no end bonuses.

Can my UAE employer deny me end of service gratuity on the grounds that I am here on a deputation basis and will continue to be employed somewhere in the world through my employer's global recruiting division? My local UAE employer insists that I am entitled only to pending salaries, and encashment of accrued leave if any. Kindly provide a legal interpretation of this situation.

Pursuant to your questions you are eligible for severance pay (gratuity) in accordance to Article 132 of the Federal Law No. 8 of 1980 of UAE (the "Labour Law") which states: "A worker who has completed a period of one or more years of continuous service shall be entitled to severance pay on the termination of his employment. The days of absence from work without pay shall not be

included in calculating the period of service. The severance pay shall be calculated as follows:

21 days' remuneration for each years of the first five years of service.

30 days remuneration for each additional year of service provided that the aggregate amount of severance pay shall not exceed two year's remuneration."

In continuance, in case there are two different contracts signed by the employee, the clauses in the contracts which is advantageous to the employee may be taken into consideration as mentioned in Article 7 of the Labour Law, which reads: "Any stipulations contrary to the provisions of this Law, even if it was made prior to its commencement, shall be null and void unless they are more advantageous to the worker."

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I have worked at a school since September 2015. I am now seven months pregnant and am due at the end of July. Since school closes by about July 7 and reopens on August 24, my school is saying that I am not entitled to maternity leave as I am already on my summer holiday so maternity leave doesn't count. But I read in the labour law that they cannot deduct my maternity leave from my annual leave, because this is a school and it's fixed leave. Is this correct?

They are also saying that because I have not completed one year I am only entitled to 20 days maternity leave at half salary, whereas I have read it is 45 days half salary.

It is understood that a school in the UAE employed you since September 2015 and now you are seven months pregnant. Your school closes for summer vacation from July 7 until August 24. It is further understood that your employer is not willing to grant you maternity leave in addition to the summer holidays by stating that maternity leave may be clubbed with summer holidays of the school. Further, your employer mentions that you are only eligible for 20 days of maternity leave, as you have not completed one year of service with your employer. The timing for availing annual leave is at the discretion of the employer. We assume that your employer grants you annual leave during summer holidays as schools are generally also closed during the summer period.

Pursuant to your questions, annual leave may not be merged with maternity leave in accordance with the provisions of Federal Law No. 8 of 1980 regulating Employment Relations in the UAE (the "Labour

Law"). The Labour Law does not separately address the issue of summer holidays for schools, and summer holidays may not be treated as annual leave. Article 30 of the Labour Law states: "A female worker shall be entitled to maternity leave with full pay for a period of 45 days, including the period preceding and the period following her confinement, on condition that she has been in her employer's service for a continuous period of not less than one year. If she has not completed the aforesaid period of service, she shall be entitled to maternity leave with half pay.

On the expiry of her maternity leave, a female worker may be absent from her work without pay for a maximum period of 100 consecutive or non-consecutive days if such absence is due to an illness preventing her from resuming her work and if the illness is confirmed by a medical certificate issued by the medical service specified by the competent health authority or if the latter authority confirms that the illness was caused by the women's work or confinement.

The leave provided for in the preceding two paragraphs, shall not be deducted from other period of leave."

As per the aforementioned provision of the Labour Law you are entitled for 45 days of leave on half pay, as you have not completed one year of employment. Further, annual leave may not be merged with